APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19,616

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, AFL-CIO, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

AERO CORPORATION, INTERVENOR

No. 19,636

NATIONAL LABOR RELATIONS BOARD, PETITIONER

v.

AERO CORPORATION, RESPONDENT

INTERNATIONAL UNION, UNITED AUTOMOBILE AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, AFL-CIO, INTERVENOR

On Petition to Review, and on Cross-Petition to Enforce, an Order of the National Labor Relations Board

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Decided June 15, 1966

Mr. Joseph L. Rauh, Jr., with whom *Messrs. John Silard, Stephen I. Schlossberg* and *Mrs. Harriet R. Taylor* were on the brief, for petitioner in No. 19616 and intervenor in No. 19636.

Mr. Jules H. Gordon, Attorney, National Labor Relations Board, of the bar of the Court of Appeals of New York, *pro hac vice*, by special leave of court, with whom *Messrs. Arnold Ordman*, General Counsel, *Dominick L. Manoli*, Associate General Counsel, *Marcel Mallet-Prevost*, Assistant General Counsel, and *Gary Green*, Attorney, National Labor Relations Board, were on the brief, for respondent in No. 19616 and petitioner in No. 19636. *Mr. Peter M. Giesey*, Attorney, National Labor Relations Board, also entered an appearance for respondent in No. 19616 and petitioner in No. 19636.

Mr. James P. Swann, Jr., with whom *Messrs. Alexander E. Wilson, Jr.*, and *John E. Branch* were on the brief, for intervenor in No. 19616 and respondent in No. 19636.

Before: DANAHER, WRIGHT and LEVENTHAL, *Circuit Judges*.

LEVENTHAL, *Circuit Judge*: These consolidated cases are here on the petition of the National Labor Relations Board to enforce its order against Aero Corporation (Company), and on the petition of the United Automobile, Aerospace and Agricultural Implement Workers (Union) to review a portion of the order.

The Board, in agreement with the Trial Examiner, found that the Company had violated Section 8(a)(1) of the National Labor Relations Act[1] by interfering with the

1. 49 Stat. 449 (1935) and 61 Stat. 136 (1947), as amended, 29 U.S.C. §§ 151-68 (1964).

protected rights of its employees to organize, Section 8(a)(3) of the Act by discharging certain employees to discourage union membership, and Section 8(a)(5) of the Act by refusing to bargain with the Union. The Board declined to find violations of the Act in the discharge of other employees active in support of the Union, and in the alleged surveillance activities of still another employee. We are convinced that the underlying findings of the Board are supported by substantial evidence on the record as a whole. Accordingly, we deny the Union's petition for review and grant the Board's petition for enforcement.

The facts as established by these findings may be stated briefly. This labor controversy arose at the Company's Lake City, Florida plant, where it engages in the repair, overhaul, and maintenance of aircraft. Early in 1962 some of its employees became interested in organizing for the purposes of collective bargaining, and contacted representatives of the Union. The first organizational meeting was held in February, 1962; a member of the Union spoke and Union authorization cards were distributed. By April 9, the Board found, a majority of the employees then in the unit had signed the authorization cards. On that date, the Union formally requested the Company to bargain. The following day, the Union petitioned for a Board election. On April 16, the Company declined to bargain with the Union, stating that it would insist on an election before recognizing the Union.[2] In the following months, the Com-

2. Refusal to bargain with a union that possesses valid authorization cards of a majority of the employees in a unit, and insistence upon an election, when the action is motivated not by a good faith doubt as to the union's majority status but rather by a desire to obtain time in which to undermine the union, is a violation of § 8(a)(5). *Joy Silk Mills, Inc.* v. *NLRB*, 87 U.S.App. D.C. 360, 185 F.2d 732 (1950), *cert. denied*, 341 U.S. 914 (1951); *International Union of Elec. Workers (S.N.C. Mfg. Co.)* v. *NLRB*, ____ U.S.App.D.C. ____, 352 F.2d 361, *cert. denied*, 382 U.S. 902 (1965).

pany through its foremen, plant manager, and vice-president interrogated employees with respect to their Union sympathies, spied on organizational meetings, threatened that the plant would close or move out of the state if the Union won the election, and discharged several employees who were active in the Union campaign.

On June 1, 1962, an election was held. The Union lost by a vote of 49 to 43.[3] On the application of the Union, the NLRB Regional Director set the election aside because the Company's activities had interfered with the free choice of the employees. The Company, however, continued its unlawful conduct, and on July 31, the Union filed a Section 8(a)(1) charge. A second election was held on August 10, 1962. The Union again lost, this time by a vote of 59 to 55. The Regional Director again set aside the election because of the conduct of the Company, and on October 25, 1962, the Union filed charges that the Company had violated Section 8(a)(5) by refusing to bargain. Upon determining that the Company had committed the unfair labor practices alleged, the Board ordered that the Company cease and desist, and affirmatively, that it post the usual notices, reinstate certain employees, and bargain with the Union. We now proceed to discuss the principal issues raised with respect to the Board's order.

I. Union Authorization

It is urged that the authorization card used by the Union is ambiguous and does not constitute an unequivocal designation of the Union as the representative of the signer for collective bargaining purposes. It is further contended that the Trial Examiner erred in not permitting the Company "to determine from all alleged card signers the pur-

3. In addition there were four challenged ballots, two of which had been cast by employees discharged by the Company for reasons the Board found to have been in violation of § 8(a)(3).

pose for which the card was executed." We find these contentions without merit.

The card[4] specifically states that it is an "Authorization to UAW," and its first sentence reads: "I, the undersigned employee of ..... [name of company] authorize UAW to represent me in collective bargaining." To be sure, the fine print at the bottom of the card says that it is for use in support of a demand for recognition, "or for an NLRB election." But we agree with the Board that notwithstanding the fine print the overall purpose of the card is clear.

The Company relies on *Peterson Bros., Inc.* v. *NLRB*, 342 F. 2d 221 (5th Cir. 1965). We approve the reasoning of the Seventh Circuit in *NLRB* v. *C. J. Glasgow Co.*, 356 F. 2d 476, 478 (1966), which rejects the *Peterson* case and points out that the card—

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4. The following is a facsimile of the card:

AUTHORIZATION TO UAW

Fill All Blanks Date _____

I, the undersigned employee of

_____

(Name of Company)

authorize UAW to represent me in collective bargaining.

Signature of Employee _____

Name of Employee—Please Print _____

Home Address _____

City _____ State _____

Class of Work _____ Shift _____

Telephone No. _____ Badge or Clock No. _____

This is not an application for membership. This card is for use in support of the demand of (UAW), American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) for recognition or for an NLRB election.

Form A-17—Rev. 3-55 Printed in U.S.A.

expressly confers the requisite authority. The recital of alternate methods by which the card might be used to make the authority operative with respect to the employer in our opinion neither negates the grant nor beclouds it with ambiguity.

It was therefore proper to refuse to permit the employer to inquire into the subjective understanding of the employee who signed the card. At oral argument, counsel conceded that the Company had been permitted to inquire as to the representations made at the times the cards were distributed, *i.e.*, to question whether there were misrepresentations. That is all that need be allowed. *Joy Silk Mills, Inc.* v. *NLRB*, 87 U.S. App. D.C. 360, 185 F. 2d 732 (1950), *cert. denied*, 341 U.S. 914 (1951); *NLRB* v. *C. J. Glasgow Co., supra.*[5]

II. Limitation Period

The Company contends that the complaint of the refusal to bargain related to an "unfair labor practice occurring more than six months prior to" the service of a copy of the charge filed with the Board and is therefore barred by Section 10(b).[6] The refusal to bargain charge was filed by the Union on October 25, 1962, and served the next day. Thus the Board must establish an unfair labor practice occurring on or after April 26, 1962.

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5. As we said in *Joy Silk Mills, supra*:

> [A]n employee's thoughts (or afterthoughts) as to why he signed a union card, and what he thought that card meant, cannot negative the overt action of having signed a card designating a union as bargaining agent. [87 U.S.App.D.C. at 371, 185 F.2d at 743.]

The card here is identical to that in *Glasgow*, and substantially similar to that in *Peterson*. It is plainly less objectionable than the card underlying the Board's order which we enforced in *International Union of Elec. Workers (S.N.C. Mfg. Co.)* v. *NLRB*, *supra* note 2.

6. 29 U.S.C. § 160 (b) (1964).

The Company's letter of April 16, 1962, responded to a Union demand to bargain in the following terms:

> Your recent letter requesting recognition as exclusive bargaining representative for our employees has been received. It is our opinion that our employees do not desire your union to represent them.
>
> In any event, we must insist that our employees be given an opportunity to vote on this important matter in an NLRB election before we assume that you have captured them.

In finding that the refusal to bargain charge was not barred, the Examiner and the Board concluded that the refusal was a continuing one and that the Company had no doubt throughout the permissible period that the Union claimed a majority and was seeking recognition. In addition, the Board referred to a statement made by Company counsel at an April 26 hearing on the Union's first petition for an election to the effect that the Company "still decline[d] to recognize" in the absence of an election. An attorney's reaffirmation of the Company's position arising out of a past action should not ordinarily of itself be sufficient to constitute a reoccurrence for the purpose of a limitation provision. Nevertheless, there are other aspects of this case which lead us to conclude that the charge is not barred.

The Board was justified in construing the Union's demand and the Company's refusal as a continuing demand for recognition and bargaining, and a continuing refusal, when another "formal demand in light of the Company's prior peremptory refusal would have been useless." *Local 152* v. *NLRB*, 120 U.S. App. D.C. 25, 28, 343 F. 2d 307, 310 (1965). This was not a case of mere Company inaction for six months following a refusal to bargain. The continuing nature of the Company's refusal in this case is clear from

the Board's findings that the Company's determination to refuse to recognize and bargain was actively implemented in the months following its letter by its efforts to undermine the Union.

The Company contends that the continuing offense theory is impermissible in light of *Machinists Local 1424* v. *NLRB*, 362 U.S. 411 (1960). That decision cannot be viewed so broadly. When within the six-month period there has been active conduct, as contrasted with mere passive inaction following an old offense, it is open to the Board to refer to previous acts "to shed light on the true character of matters occurring within the limitations period." 362 U.S. at 416. In effect what was involved here was a basic Company approach started more than six months prior to the charge, but carried forward by more recent actions. The Board in effect viewed the actions within the six-month period as reiterations by deed of the underlying refusal to bargain and hence as establishing a violation of Section 8(a)(5).[7] We think this was within its authority under the Act.

III. Use of Protected Statements

The Company insists that statements protected by Section 8(c)[8] of the Act were used by the Trial Examiner and the Board for purposes inconsistent with the protection granted by that section. It claims statements were

7. The Board also stated: "Moreover, even if the 10(b) period of limitations were fatal to an 8(a)(5) finding, an affirmative bargaining order would be appropriate to remedy the 8(a)(1) violations found herein, and to restore the *status quo ante*." 149 N.L.R.B. 1283, 1285 n. 3. This point is also well taken. See *Local 152* v. *NLRB*, 120 U.S.App.D.C. 25, 27, 343 F.2d 307, 309 (1965); *NLRB* v. *Delight Bakery, Inc.*, 353 F.2d 344, 347 (6th Cir. 1965). This is a separate and distinct ground of decision since there may be actions within the six-month period that suffice to continue a § 8(a)(5) violation even if they could not independently be found as violations of § 8(a)(1).

8. 29 U.S.C. § 158(c) (1964).

used to judge the credibility of Company witnesses, to establish the bad faith refusal to bargain, and in short as some evidence of the unfair labor practices themselves. We do not so read either the decision of the Examiner or that of the Board. There is a vast difference between the use of protected statements as evidence of an unfair labor practice, and the use of such statements to draw the background of the controversy and place other nonverbal acts in proper perspective. The latter is all the Board did here. The evidence recited by both the Examiner and the Board relates to specific acts of various agents of the Company. The references to protected statements or speeches merely placed the other acts in context. This limited use is sanctioned by *Hendrix Mfg. Co.* v. *NLRB*, 321 F. 2d 100 (5th Cir. 1963), cited by the Examiner.

In particular, the Company states that the Examiner used protected material to place "all management representatives in the 'liar' column," and for the "mass discrediting of all company witnesses." We find no support in the record for this exaggerated characterization of the Examiner's method of decision. We have been shown nothing from which it could be inferred that the Examiner strayed from his role as an objective and impartial fact-finder. Moreover, the Board in its decision did not refer to the protected material, and its decision is supported by substantial evidence on the record as a whole. See *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474, 492-97 (1951).

IV. Supervisory Personnel

Two low-level supervisory personnel apparently passed out some of the authorization cards, and there is some evidence to show that one solicited signatures.[9] The Com-

9. Although the Board held that the worker was a supervisor, it noted that she had been told by her foreman that she was not a supervisor, that a letter circulated during the campaign by the Company's supervisors did not contain her signature, and that she voted in one of the elections without challenge.

pany argues that their participation taints all of the authorization cards.[10] There is substantial evidence to support the Board's finding that the limited participation and unclear status of the persons involved negatived the possibility that they may have coerced employees into signing up against their wishes. Moreover, whatever merit this Company contention might have had at a time when the Union was petitioning for an election based on the cards, the relief sought now is unavailable. The Board reasoned that to permit an employer to rely on the participation of marginal supervisory personnel in the Union's campaign to justify after the fact its refusal to bargain with the Union would encourage it to allow such participation in hopes of later, in the event of a Union majority, obtaining an order either setting aside an election or upholding the refusal to bargain. This seems to us a permissible ruling in determining the application of the Act, where the complaint does not charge Company domination of a union or efforts to further the cause of a particular union.

V.

The Board ordered the Company to reinstate four employees it found to have been discharged to discourage union membership. The Company disputes the findings as to each. The Union asserts that the Board should have found that an additional employee had been so discharged.[11]

10. The Company says that the record shows that four cards were obtained by the two supervisors. The Examiner found that the cards allegedly obtained by them had been lost in the mail. The Board, however, did not rely on this finding.

11. The Examiner found that the employee's discharge was based "primarily upon departmental seniority." The Union seizes upon the word "primarily" and suggests that it implies the discharge was in part motivated by Company knowledge of the employee's union activity. In our view of the record, the Examiner was referring to an additional reason for the discharge given by the employee's supervisor, namely, that the employee had asked to be one of the first to be laid off under a contemplated reduction in force.

We are satisfied that the Board's conclusions are supported by substantial evidence.

We have considered the Union's assertion that the Company committed additional Section 8(a)(1) violations through the activity of a test pilot who officiously spied upon some organizational meetings. Since there is substantial evidence supporting the Board, its resolution of this question must stand.

We have also considered the other numerous objections of the Company and do not find them persuasive, separately or together.

The Union's petition for review is denied. The Board's petition for enforcement of its order is granted.

It is so ordered.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SEPTEMBER TERM, 1965.

No. 19,616

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO, Petitioner,

v.

National Labor Relations Board, Respondent,
Aero Corporation, Intervenor.

No. 19,636

National Labor Relations Board, Petitioner,

v.

Aero Corporation, Respondent,
International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO, Intervenor.

On Petition to Review and Reverse or Modify, and on Cross-Petition to Enforce, an Order of the National Labor Relations Board.

Before: Danaher, Wright and Leventhal, Circuit Judges.

Judgment

These cases came on to be heard on the record from the National Labor Relations Board, and were argued by counsel.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by this court:

(1) that the Union's petition to reverse or modify the decision and order of the National Labor Relations Board is denied; and

(2) that the Board's petition for enforcement is granted.

Pursuant to Rule 38(1) the National Labor Relations Board shall within 10 days hereof serve and file a proposed enforcement decree consistent with the opinion of this court.

Per Circuit Judge Leventhal

Dated: June 15, 1966

APPENDIX B

The relevant provisions of the National Labor Relations Act, as amended (61 Stat. 136, 73 Stat. 519, 29 U.S.C. 151, *et seq.*), are as follows:

Section 7—Rights of Employees

> Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3).

Section 8(a)—Unfair Labor Practices

It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7;

(2) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: Provided, That subject to rules and regulations made and published by the Board pursuant to Section 6, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in Section 8(a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in Section 9(a), in the appropriate collective-bargaining unit covered by such agreement when made, and (ii) unless following an election held as provided in Section 9(e) within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: Provided further, That no employer shall justify any discrimination against an employee for non-membership in a labor organization (A) if he has reasonable grounds for believing that such mem-

bership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9(a).

Section 8(c)—Unfair Labor Practices

The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.

Section 10(b)—Prevention of Unfair Labor Practices

Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint: Provided, That no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six-

month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States adopted by the Supreme Court of the United States pursuant to the Act of June 19, 1934 (U.S.C., Title 28, Secs. 723-B, 723-C).

APPENDIX C

Portions of the NLRB hearing transcript referred to in Petition:

240 THE WITNESS: Yes, there is a Sarah Waldron.

TRIAL EXAMINER: But you don't know whether she was in the group that was working with you or attending your meetings.

THE WITNESS: I was only at one meeting, sir.

TRIAL EXAMINER: Yes, that's right.

Go ahead, Mr. Ogletree.

Q. (By Mr. Ogletree) And Mrs. Beatrice Bowman also thought the union would be a good thing?

A. Yes.

Q. And she actively helped in organizing the employees; is that right?

A. Yes.

MR. ROMANO: I object to the question and—

TRIAL EXAMINER: He has already answered it.

MR. ROMANO: Well, I have an objection and—

TRIAL EXAMINER: Well, just one second so that I can hear you.

MR. SACK: We should be given an opportunity to object before the answer is given, before the question is answered. Would you mind instructing the witness not to answer a question until we have an opportunity to object to it.

We also object further on the basis that no date or period of time has been stated.

TRIAL EXAMINER: Well, I will overrule the objection and I will ask counsel to place the time, if you
241 will.

Will you do that?

MR. OGLETREE: Yes.

TRIAL EXAMINER: Proceed.

Q. (By Mr. Ogletree) When the union was first started back in February, Mrs. Bowman assisted in getting the cards signed at that time, didn't she?

MR. GOERLICH: Now, I object to the word "insisted."

MR. OGLETREE: I said assisted.

MR. GOERLICH: What was that?

MR. OGLETREE: I said assisted.

MR. GOERLICH: Would you read the question back?

TRIAL EXAMINER: Mr. Reporter, read the question back, please.

(The last question was read by the Reporter)

MR. ROMANO: Just one second.

I have an objection to that because I don't think that there is any testimony thus far that the witness knew what she did.

It seems to be an implication and—

TRIAL EXAMINER: Just a minute.

I think that you should question the witness on his observations because you may be getting into terms of hearsay.

MR. OGLETREE: Thank you, Mr. Examiner.

TRIAL EXAMINER: Proceed.

242 Q. (By Mr. Ogletree) Mr. Heard, you have previously testified, as I understand it, and correct me if I am wrong, that Mrs. Beatrice Bowman assisted the organizational drive here in Lake City during the month of February, 1962?

A. (No response)

Q. Is that right?

A. In a certain sense, it is correct.

TRIAL EXAMINER: How do you know, Mr. Heard?

THE WITNESS: I beg your pardon?

TRIAL EXAMINER: Mr. Heard, how do you know she assisted?

THE WITNESS: She collected them.

TRIAL EXAMINER: Did you see her collect?

THE WITNESS: She brought the card to me, sir, and she had—the cards, she had to collect them.

TRIAL EXAMINER: And you know that she brought cards to you; is that right?

THE WITNESS: I beg your pardon?

TRIAL EXAMINER: She brought cards to you, you know that?

THE WITNESS: Yes.

TRIAL EXAMINER: All right, go ahead.

Is there anything else?

MR. OGLETREE: Yes.

TRIAL EXAMINER: Proceed.

Q. (By Mr. Ogletree) How many cards did she bring to you, Mr. Heard, or do you recall?

243 A. She brought me approximately 16.

Q. Approximately 16 cards?

A. Yes.

Q. And what was the date that she handed these cards to you approximately?

A. Two or three days after the first union meeting.

Q. And it would be sometime the early part of March?

A. Yes.

Q. Well, would you be able to identify the employees by name who signed cards that Beatrice Bowman gave to you?

A. Some of them, I could.

Q. Well, would you give us those names?

A. Betty Phillips is one that I distinctly remember of the cards that Beatrice gave me.

TRIAL EXAMINER: Would you read the last answer back, Mr. Reporter?

(The last answer was read by the Reporter)

TRIAL EXAMINER: Proceed.

Q. (By Mr. Ogletree) All right, sir.

A. And there was Judy.

Q. Judy Johnson?

A. Yes, her last name.

TRIAL EXAMINER: What was that last name?

MR. OGLETREE: It is Judy Johnson, the lead lady on the night shift.

244 TRIAL EXAMINER: Do you know her as the lead lady on the night shift, Judy Johnson, Mr. Heard?

THE WITNESS: I suppose that she was a lead lady. I have no facts.

TRIAL EXAMINER: But is that what you—you, of course, you would call her that at that time, the lead lady?

THE WITNESS: I recognized her as a lead lady, sir.

TRIAL EXAMINER: All right, go ahead.

Excuse me for interrupting you, Mr. Ogletree.

MR. OGLETREE: That is perfectly all right, sir.

TRIAL EXAMINER: Proceed.

Q. (By Mr. Ogletree) All right.

Can you think of any others of the 16.

A. Offhand, I can't.

TRIAL EXAMINER: What about Mrs. Bowman's card?

THE WITNESS: Sir?

TRIAL EXAMINER: Beatrice Bowman's card, did she submit a card for herself?

THE WITNESS: Yes.

TRIAL EXAMINER: With what appeared to be her signature; is that right?

THE WITNESS: Yes.

TRIAL EXAMINER: Proceed.

Q. (By Mr. Ogletree) Yesterday you testified that you saw Betty Phillips sign her card?

245 A. (No response)

Q. Did you not testify yesterday that you saw Betty Phillips sign the card?

A. Yes.

Q. Did she sign it in the presence of Mrs. Bowman?

A. There were two or three other girls when she signed that card but who was in the crowd, I would not say, because I don't recall the exact persons.

Q. After Betty Phillips signed the card, did she hand it to you or did she give it to Mrs. Beatrice Bowman to hand to you?

A. I suppose that she gave it to Mrs. Bowman because Mrs. Bowman gave it to me.

Q. Yes, you were standing right there and you saw her sign it and it went another route, through Mrs. Bowman?

A. I wasn't there for the purpose of seeing her sign it, no, sir.

Q. And isn't it true that the reason, even though you were present in the room, and you were the one delegated to collect these cards, isn't it true that the reason that this card was given to Mrs. Beatrice Bowman was the fact that she was some kind of a committeewoman to bring in so many cards?

A. No.

Q. Did Mrs. Beatrice Bowman just take it upon herself to turn in 16 cards?

MR. SACK: Don't answer that.

246 We object on the grounds that it calls for a conclusion.

TRIAL EXAMINER: I think that we are.

I am going to sustain the objection again on what the witness knew about Mrs. Bowman having cards and getting signatures.

Now, if he knows anything about it, then, we will decide as we go along.

MR. OGLETREE: Mr. Examiner, I believe that he has already testified that Mrs. Bowman handed him personally 16 cards.

TRIAL EXAMINER: But the question now is how she started, how she began using the cards at all and if she got the signatures.

Now, he saw her get Betty Phillips signature and lets find out how Mrs. Bowman started doing any of these.

Proceed.

Q. (By Mr. Ogletree) Mr. Heard, how did Mrs. Bowman get actively interested in the union organizational drive?

TRIAL EXAMINER: Do you know anything about it?

MR. ROMANO: Mr. Examiner, if we are going into the card element now because that question doesn't mean that to me.

Will you read the question back because I might have an objection to it.

TRIAL EXAMINER: Mr. Reporter, would you read the question back.

247 (The last question was read by the Reporter)

MR. ROMANO: I will withdraw the objection but that is not the same subject.

TRIAL EXAMINER: It is not—what did you say?

MR. ROMANO: I will withdraw my question.

TRIAL EXAMINER: All right.

Proceed.

MR. OGLETREE: Do you remember the question?

THE WITNESS: No.

TRIAL EXAMINER: Mr. Reporter, would you read the question back?

(The last question was read by the Reporter)

A. I had previously talked to Mrs. Bowman about it before the cards were ever in existence.

Q. (By Mr. Ogletree) And at that time she volunteered to help or did you solicit her aid?

A. I gave cards to Judy Johnson. I suppose that is her last name and she voluntarily wanted the cards so that she could get the girls to sign them.

Q. Mrs. Bowman wanted the cards?

A. Judy Johnson did.

Q. Lets talk about Mrs. Bowman.

How did she get in possession of the cards, if you know?

A. She—according to Judy's statement to me and—

MR. ROMANO: I object to that.

258 TRIAL EXAMINER: Off the record.

(Discussion off the record)

TRIAL EXAMINER: On the record.

Proceed.

MR. ROMANO: Yes, I will. Just a moment. (Conferring with Mr. Sack)

TRIAL EXAMINER: Are you ready, now?

MR. ROMANO: Yes, Mr. Trial Examiner.

TRIAL EXAMINER: Very well.

Q. (By Mr. Romano) Did you ask B. Bowman to get cards signed for you?

A. Judy did.

Q. Judy did?

A. Yes.

TRIAL EXAMINER: In your presence?

THE WITNESS: And Judy told me she did.

TRIAL EXAMINER: All right.

Q. (By Mr. Romano) And you said there was 19 cards that you put in the mail?

A. Yes.

Q. Is that right, that you put in the mail?

A. Yes.

Q. And you identified 16 of those cards as being cards that you got from whom?

A. From B. Bowman.